

Mail order delivery charges are considered separately agreed upon services so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation are actually reflective of the cost of shipping. 86 Ill. Adm. Code 130.415(d). (This is a GIL.)

August 8, 2001

Dear Xxxxx:

This letter is in response to your letter dated June 17, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I have been advised to present a situation before you for your response. I am glad to be able to do so.

I recently purchased a video, by credit card, from COMPANY. Enclosed is a copy of the statement regarding this purchase.

When I received the statement, it appeared to me that COMPANY was charging Illinois State Sales Tax on shipping and handling. I called them and was told that they do charge Illinois State Sales Tax on shipping and handling. I said to them: 'But the video you sent me was shipped by the United States Postal Service, does this mean that you charge Illinois State Sales Tax on United States postage?' The customer service rep, who perhaps should not have been the person to answer my question, said 'I guess so' or something like that. End of that conversation.

Therefore, my question to you is two-fold: (Can/should COMPANY charge Illinois State Sales Tax on shipping and handling? Can/should COMPANY charge Illinois State Sales Tax on money used to pay for United States postage?

Please note that this is not a big issue for me personally - I paid about 35¢ more in sales tax because Illinois State Sales Tax was charged on shipping and handling. It is an issue for me (1) because our Postmaster does not believe that COMPANY should be charging Illinois State Sales Tax on United States postage and (2) because I have no idea how many sales COMPANY makes yearly to Illinois residents nor consequently how much sales tax they collect for shipping and handling (which includes sales tax charged on United States postage).

I look forward to hearing from you in regard to the legality of this practice. Thank you.

For your information and reference please find enclosed a copy of the Department's regulation on treatment of transportation and delivery charges under the Retailers' Occupation Tax Act, 86 Ill.

Adm. Code 130.415. As you can see from the regulation, transportation and delivery charges, also designated as shipping and handling charges, are not taxable if it can be shown that the charges are separately contracted for and the charges are actually reflective of the costs of shipping. To the extent the transportation and delivery charges exceed the costs of shipping, the charges will be subject to tax.

Mail order delivery charges are considered separately agreed upon service charges so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation or delivery, or shipping and handling, charges are actually reflective of the costs of such shipping, transportation or delivery. See 86 Ill. Adm. Code 130.415(d).

If, however, the transportation and delivery charges are included in the selling price of the property sold, then the charges are an element of the cost to the seller and are not deducted by the seller when computing Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.415(c). Furthermore, transportation or delivery charges that are incurred by the seller in acquiring tangible personal property for sale are merely costs of doing business and are also not deductible when computing the seller's Retailers' Occupation Tax liability, regardless of the fact that the seller passes such costs on to the customer by quoting and billing such costs separately from the selling price of the property being sold. See 130.415(e).

I hope this information has been helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Shane McCreery

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